

#3887

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# TECHNICAL MEMORANDUM

## Utah Coal Regulatory Program

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September 9, 2011

NOA

TO: Internal File

THRU: Ingrid Campbell, Team Lead

UC

FROM: Angela Nance, Business Analyst

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RE: Midterm Permit Review Response, Canyon Fuel Company, LLC, Banning Loadout, C/007/0034, Task ID #3887

### SUMMARY:

In accordance with R645+303-211, The Division is required to review each active permit during its term. The Division commenced the Midterm Review for the Banning Loadout on April 19, 2011. Deficiencies were noted and sent to the Operator on May 19, 2011. A response addressing those deficiencies was received from the Operator on August 8, 2011. This Technical Memorandum reviews the ownership and control information to ensure that it is current and correct as compared to the information found in the Applicant Violator System (AVS).

The findings in this memo are based on a review of the submitted ownership and control response received on August 8, 2011.

## **TECHNICAL ANALYSIS:**

# **GENERAL CONTENTS**

## **IDENTIFICATION OF INTERESTS**

Regulatory Reference: 30 CFR 773.22;30 CFR 778J3: R645-301-112

### **Analysis:**

The Banning Loadout permit is currently held by Canyon Fuel Company, LLC, a Delaware limited liability company. Canyon Fuel Company, LLC is owned by Arch Western Bituminous Group, LLC (65%) and Arch Coal, Inc. (35%). Arch Western Resources, LLC is owned by Arch Western Acquisition Corporation (99%) and by Delta Housing, Inc. (1%). Arch Coal, Inc. wholly owns Arch Western Acquisition Corporation.

### **Findings:**

Some of the information submitted as a response to the previous ownership and control deficiencies does not match what is found in the OSM/AVS database.

#### **Arch Coal, Inc.**

1. The AVS shows an **End Date of 5/31/11 for David B. Peugh, Vice President**. This End Date is not reflected in the submitted information.
2. The AVS shows an **End Date of 4/28/11 for Thomas A. Lockhart, Director**. This End Date is not reflected in the submitted information.
3. The AVS shows **David N. Warnecke, Vice President with a Begin Date of 2/24/11**. This does not match the date of 8/08/05 as shown in the submittal.
4. Thomas J. Jones, Director and Peter I. Wold, Director both show a Begin Date of 7/24/10. The AVS shows a Begin Date of 7/21/10.

#### **Arch Western Bituminous Group, LLC**

1. The AVS shows an **End Date of 4/15/11 for Gary Bennett, Director**. This End Date is not reflected in the submitted information.
2. The AVS shows **Paul Lang, Director with a Begin Date of 4/15/11**. This information is not in the submittal.

**Canyon Fuel Company, LLC**

1. The AVS shows an **End Date of 4/15/11 for Gary Bennett, Director**. This End Date is not reflected in the submitted information.
2. The AVS shows **Paul Lang, Director with a Begin Date of 4/15/11**. This information is not in the submittal.

Please address these discrepancies by either updating the information in the submittal for incorporation into the MRP or by providing a Secretary's Certificate to correct the AVS.

**RECOMMENDATION:**

The Operator did address the discrepancies identified during the initial Midterm Review. However, the information that was submitted is again out of date compared to the information in the AVS. The application should be approved conditioned upon the Operator submitting clean up- to-date ownership and control pages.